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| MICHIGAN DEPARTMENT OF CORRECTIONS POLICY DIRECTIVE SUBJECT INTERNAL AFFAIRS SECTION | EFFECTIVE DATE 10/18/1999 | NUMBER 01.01.140 |
| | SUPERSEDES 01.01.140 (11/14/97) | |
| | AUTHORITY MCL 423.501 et seq.; 791.203 | |
| | ACA STANDARDS NONE | |
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POLICY STATEMENT:

The Internal Affairs Section shall ensure prompt and thorough investigations of certain allegations against employees.

RELATED POLICIES:

- 02.03.100 Employee Discipline
- 02.03.107 Code of Ethics and Conduct – Employees
- 02.03.108 Sexual Harassment Reporting and Prevention
- 02.03.109 Harassment Reporting and Prevention

POLICY:

GENERAL INFORMATION

- A. For purposes of this policy, "employee" includes contractual personnel.
- B. For purposes of this policy, "Deputy Director" includes the Executive Assistant to the Director and the Administrator of the Office of Audit and Internal Affairs.
- C. For purposes of this policy, the senior work site administrator shall be the warden or, for non-institutional sites, the highest ranking manager or supervisor, except that in Central Office the senior work site administrator shall be the appropriate Deputy Director.
- D. The Internal Affairs Section is responsible for investigating alleged employee misconduct, including criminal activity, as set forth in this policy. It also shall coordinate referrals of matters outside its jurisdiction either to other Department investigators or to other law enforcement agencies, as appropriate.
- E. The Internal Affairs Section is a vital component of an integrated investigative system within the Department, complementing the investigative staff at the work site and the administrative investigative responsibilities of the Equal Employment Opportunity/Affirmative Action Office and the Office of Personnel and Labor Relations.

CASES WITHIN THE JURISDICTION OF THE INTERNAL AFFAIRS SECTION

- F. The Internal Affairs Section shall have jurisdiction to investigate cases involving the following types of allegations against employees:
 - 1. Alleged conduct which, if found to be true, would constitute a felony or circuit court misdemeanor.
 - 2. Major infractions of work rules and policies where the magnitude is such that the agency has been undermined or where the act is so serious that employment may not be continued.
 - 3. Other alleged activity as specified by the Director or the Administrator of the Office of Audit and

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Internal Affairs.

- G. Generally, allegations concerning the conduct of offenders are not under the jurisdiction of the Internal Affairs Section. However, such allegations are within the jurisdiction of the Internal Affairs Section if the offender is alleged to be involved in felonious conduct and there is evidence that the offender either conspired with an employee or was aided and abetted by an employee.
- H. At the discretion of the Director, the Internal Affairs Section may be assigned to assist other Department investigators or to lead an investigation of prisoner misconduct not assigned to the Michigan State Police. However, allegations of prisoner misconduct shall be administered in conformance with PD 03.03.105 "Prisoner Discipline".
- I. Allegations of employee misconduct involving sexual harassment which do not constitute felonious conduct, and allegations of equal employment opportunity or civil rights violations, shall be administered by the Equal Employment Opportunity (EEO) Office as set forth in PD 02.03.108 "Sexual Harassment Reporting and Prevention" or PD 02.03.109 "Harassment Reporting and Prevention", as appropriate. Allegations involving violations of collective bargaining unit contract provisions shall be administered by the Office of Personnel and Labor Relations. However, after consultation with the EEO Officer or the Personnel Director, as appropriate, the Director or designee may assign the Internal Affairs Section to assist Department investigators in a specific investigation.

REFERRAL OF CASES TO INTERNAL AFFAIRS SECTION

- J. If questions arise as to whether a case should be referred to the Internal Affairs Section, the senior worksite administrator or designee should contact the Manager of the Internal Affairs Section for guidance.

Notification

- K. The appropriate Deputy Director or designee shall immediately notify the Internal Affairs Section by telephone or pager, including after normal business hours, if an employee is alleged to be involved in criminal activity of a major magnitude; e.g., a death with obvious homicide overtones; sexual assault.
- L. Except as set forth in Paragraph M, all other allegations of employee misconduct that fall within the jurisdiction of the Internal Affairs Section shall be reported by telephone to the Internal Affairs Section within one business day after receipt of the complaint.
- M. If an allegation of employee misconduct that falls within the jurisdiction of the Internal Affairs Section is received from a prisoner by letter, grievance, or any other means, the senior work site administrator or designee shall conduct a preliminary investigation. If the allegation contains facts, rather than mere assertions or rumor, upon which definite suspicion of improper conduct within the jurisdiction of the Internal Affairs Section can be based, the senior work site administrator or designee shall forward the allegation to the Internal Affairs Section and inform his/her supervisor.
- N. If, during the course of an investigation by other Department staff, information or evidence is revealed which indicates that an employee may have engaged in conduct which would constitute a felony or circuit court misdemeanor, the senior work site administrator or designee shall notify the Internal Affairs Section as soon as possible but no later than one business day after the discovery of that information or evidence. Significant investigative steps in the administrative inquiry shall cease until the Internal Affairs Section is notified.

Documentation

- O. For all cases referred to the Internal Affairs Section, the senior work site administrator or designee shall complete and mail a Complaint Against Employee form (CAJ-307) within one business day after receipt of the allegations. At the request of the Internal Affairs Section, the form shall be sent via facsimile.

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- P. If an employee has been suspended or a stop order has been issued on the employee as a result of the alleged conduct, a copy of the employee notification paperwork must be submitted with the CAJ-307.

PROCESSING AND INVESTIGATION

- Q. The Internal Affairs Section shall review each case referred to determine whether the case is within its jurisdiction. If a case is not within its jurisdiction, it shall be referred to the appropriate agency.
- R. The Manager of the Internal Affairs Section shall determine who shall be assigned to investigate cases within its jurisdiction, except that all cases of major magnitude shall be assigned only with the concurrence of the Director or designee, the affected Deputy Director, the Administrator of the Office of Audit and Internal Affairs, and the warden or FOA Regional Administrator, as appropriate. If any of the aforementioned individuals are not available, a prompt decision shall be made by those available.
- S. Whenever staff not assigned to the Internal Affairs Section are designated to be the primary investigators, the Internal Affairs Section shall be kept informed of all major developments in the investigation. Such notification shall be in the manner requested by the Internal Affairs Section. The Internal Affairs Section shall ensure that the investigation is conducted in a prompt and thorough manner. The Internal Affairs Section shall assist with the investigation as deemed appropriate by the Manager of the Internal Affairs Section in consultation with the senior work site administrator or designee.
- T. The Internal Affairs Section shall coordinate the investigation of all cases referred to the Michigan State Police. The Internal Affairs Section and other investigatory staff shall assist and cooperate with the Michigan State Police to ensure a prompt and thorough response to any request made of the Department. This provision is not intended to place any duty on an employee contrary to law or to limit an employee's right under a collective bargaining unit agreement or provision of law.
- U. If a complaint alleges an employee was involved in sexual misconduct with an offender, an independent investigation shall be conducted by the Internal Affairs Section or other Department staff in addition to any Michigan State Police investigation. Sexual misconduct is defined as engaging in or attempting to engage in a sexual act with an offender, or the intentional touching of an offender's genitals, anus, groin, breast, inner thigh or buttocks with the intent to abuse, humiliate, harass, degrade, arouse, or gratify the sexual desire of any person. This includes indecent exposure.
- V. The Manager of the Internal Affairs Section shall ensure a case tracking system is maintained to identify and monitor the status of all cases within the jurisdiction of the Internal Affairs Section.
- W. In coordination with affected Administrations, the Manager of the Internal Affairs Section also shall ensure a case tracking system is maintained of all cases involving employee misconduct that are outside the jurisdiction of the Internal Affairs Section but are being investigated by other Department staff or the Michigan State Police.
- X. The Manager of the Internal Affairs Section shall inform the Director or designee of the status of each case on the case tracking system on a schedule to be determined by the Director or designee. Other management personnel shall be advised of the status of such cases as determined by the Director.
- Y. The Internal Affairs Section shall notify the appropriate prosecuting attorney of any case being investigated which involves criminal conduct. Notification shall be provided during the early stages of the investigation. Upon completion of the investigation, the case shall be referred to the prosecuting attorney to determine if criminal charges will be filed, regardless of the findings of the investigation.
- Z. Cases within the jurisdiction of the Internal Affairs Section shall be referred to the Director for final review before they are closed. All closed cases shall have one of the following indicated as the Department's final disposition:

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1. Sustained, when there is sufficient evidence upon which to conclude that the allegation is true;
2. Not sustained, when there is not sufficient evidence upon which to conclude that the allegation is or is not true;
3. Unfounded, when there is sufficient evidence upon which to conclude that the allegation is not true;
4. Other, when an allegation does not fall into any of the above categories.

AA. Upon closure of a case concerning a violation of a Department work rule or policy, including alleged criminal activity, the Internal Affairs Section shall notify the employee that an investigation was conducted and the disposition of that investigation, unless disciplinary charges are to be filed. If disciplinary charges are filed, the employee shall receive notice of the charges and a hearing as set forth in PD 02.03.100 "Employee Discipline". If disciplinary charges are not filed, or if it is later determined that there was no violation of a Department work rule or policy or the charges are dismissed, information in the Internal Affairs file shall not be used in any future employment action or consideration involving the employee.

SEXUAL MISCONDUCT REVIEW COMMITTEE

- BB. There shall be a Sexual Misconduct Review Committee. The Committee shall be chaired by the Administrator of the Office of Audit and Internal Affairs and shall include the Personnel Director, the Special Assistant to the Director, the Special Administrator for Female Offender Programs, the EEO Officer, and the affected Deputy Director.
- CC. Available members of the Committee shall meet as needed to review all cases in which it is alleged that an employee engaged in sexual misconduct with an offender. The purpose of the review shall be to ensure that a thorough investigation has been conducted and to provide input to the affected Deputy Director and the Director so that they may make an informed decision as to complaint closure. Therefore, the review shall take place prior to the closing of the investigation and prior to the lifting of any stop order or the return to work of the employee alleged to have committed the sexual misconduct. After the review of the evidence developed in the investigation, the Committee shall either concur that the investigation be closed or suggest further investigation. The Committee shall make a recommendation as to the lifting of a stop order or the recall of the employee, but the final determination shall be made by the affected Deputy Director. The affected Deputy Director shall notify the employee's personnel office as to his/her decision regarding the stop order or recall.

OPERATING PROCEDURES

- DD. The FOA Deputy Director, the Office of Audit and Internal Affairs Administrator, and wardens shall ensure that within 60 days of its effective date procedures implementing this policy directive are developed. Wardens shall forward procedures to the appropriate CFA Regional Prison Administrator for approval.

AUDIT ELEMENTS

- EE. A Primary Audit Elements List has been developed and will be provided to the Executive Policy Team, the Administrative Management Team and wardens to assist with self audit of this policy, pursuant to PD 01.05.100 "Self Audit of Policies and Procedures".

BM:OPH:09/23/99